

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MARK A. BROOKS,	:	
Plaintiff,	:	
	:	
vs.	:	Case No. 3:11cv0318
	:	
MIAMI VALLEY HOSPITAL, et al.,	:	JUDGE WALTER HERBERT RICE
	:	
Defendants.	:	

DECISION AND ENTRY ADOPTING IN PART AND NOT RULING UPON IN PART INITIAL (DOC. #10) AND SUPPLEMENTAL (DOC. #12) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE, AND OVERRULING IN PART AND NOT RULING UPON IN PART PLAINTIFF'S OBJECTIONS TO SAID JUDICIAL FILINGS (DOC. #11 AND #14); QUESTION OF WHETHER PLAINTIFF'S ATTEMPTED REMOVAL TO THIS COURT WAS OBJECTIVELY UNREASONABLE AND, ACCORDINGLY, WHETHER DEFENDANTS SHOULD BE ALLOWED THEIR ATTORNEY FEES AND COSTS UNDER 28 U.S.C. SECTION 1447(c) RESERVED FOR POST-REMAND PROCEEDINGS; JUDGMENT TO ENTER IN FAVOR OF DEFENDANTS AND AGAINST PLAINTIFF, REMANDING THE CAPTIONED CAUSE TO THE MONTGOMERY COUNTY COMMON PLEAS COURT; TERMINATION ENTRY ON QUESTION OF REMAND

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge in his Initial (Doc. #10, 1-3) and Supplemental (Doc. #12, 1-3) Reports and Recommendations, as well as upon a thorough de novo review of this Court's file and the applicable law, this Court adopts said Reports and Recommendations in part (to the extent that the captioned cause, having been

improperly removed, is remanded to state court) and not ruled upon in part (to the extent that the Magistrate Judge ruled that Plaintiff's attempted removal was not objectively responsible and, accordingly, Defendants are entitled to an award of their attorney's fees and costs). The Plaintiff's Objections to said judicial filings (Doc. #11 and #14) are overruled in part (to the Magistrate's filing recommending remand) and not ruled upon in part (to the extent that the Magistrate Judge concluded that Plaintiff's attempted removal was objectively unreasonable and, therefore, Defendants are entitled to an award of their attorney's fees and costs).

Judgment will be ordered in favor of the Defendants and against Plaintiff, remanding the captioned cause to the Montgomery County Court of Common Pleas, from whence it came.

The issue of the objective reasonableness of Plaintiff's attempt to remove the captioned cause to this Court and whether Defendant should be entitled to reasonable attorney's fees and costs will be decided post-remand, with no further briefing either needed or accepted by this Court.

Wherefore, based upon the aforesaid, the captioned cause is ordered remanded to the Montgomery County Common Pleas Court, and the captioned cause ordered terminated on the remand issue presently pending.

March 29, 2012



WALTER HERBERT RICE, JUDGE
UNITED STATES DISTRICT COURT

Copies to:

Counsel of record